

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

COPPER SANDS HOMEOWNERS
ASSOCIATION, INC., *et al.*,

Plaintiffs,

vs.

COPPER SANDS REALTY, LLC, *et al.*,

Defendants.

Case No.: 2:10-cv-00510-GMN-NJK

ORDER

Pending before the Court is the Motion for District Judge to Reconsider Order (ECF No. 468) filed by Defendant CS Consulting Service, LLC (“CSCS”). Plaintiffs filed a Response. (ECF No. 537.) For the reasons stated below, the Court DENIES CSCS’s Motion for Reconsideration.

I. PROCEDURAL BACKGROUND

On March 27, 2012, this Court entered an Order granting in part and denying in part CSCS’s Motion for Summary Judgment. (ECF No. 425.) Specifically, the Court entered summary judgment in favor of CSCS on Plaintiffs’ claim for negligence. (*Id.* at 9:6-7.) However, the Court denied CSCS’s motion for summary judgment with respect to Plaintiffs’ claims for negligent misrepresentation, breach of contract and implied warranty. (*Id.* at 9:4-5.) Thereafter, CSCS filed the instant motion requesting that the Court reconsider the portion of the Court’s Order that denied CSCS’s motion for summary judgment. (ECF No. 468.) Although Plaintiffs initially failed to file a Response to CSCS’s Motion to Reconsider (*see* Notice of Non-opposition, ECF No. 492), Plaintiffs eventually filed an Emergency Motion to Extend Time to Respond (ECF No. 529). The Court granted that motion on July 20, 2012 (ECF No.

532) and Plaintiffs filed their Response to Defendant's Motion to Reconsider on July 23, 2012 (ECF No. 537).

II. LEGAL STANDARD

"[A] motion for reconsideration should not be granted, absent highly unusual circumstances." *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (citation omitted). Reconsideration is appropriate where: (1) the court is presented with newly discovered evidence, (2) the court committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law. *School Dist. No. 1J, Multnomah Cnty v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

III. DISCUSSION

The Court has reviewed the prior ruling and the arguments presented by Defendant in its motion and has not found any reason to overturn this Court's previous Order. In Defendant's motion, Defendant has failed to present the Court with any newly discovered evidence. Likewise, Defendant has failed to indicate that there has been an intervening change in the controlling law. Rather, Defendant appears to argue that the Court committed clear error and that the Court's initial decision to deny Defendant's motion for summary judgment was manifestly unjust. However, the Court finds neither clear error nor manifest injustice in the reasoning of the Court's order transferring venue. Accordingly, Plaintiff's Motion to Reconsider is DENIED.


To the extent that Defendant is attempting to "re-new" its original motion for summary judgment, such an attempt is improper because the instant motion contains arguments not presented in Defendant's motion for summary judgment. These arguments were presented only in Defendant's Reply Brief, thereby preventing Plaintiffs from responding to those arguments. Furthermore, these arguments were improperly raised in the instant motion because this motion was filed more than three months after the dispositive motions deadline. (*See Stipulation &*

1 Order to Extend Discovery 5:11, ECF No. 293.)

2 **IV. CONCLUSION**

3 **IT IS HEREBY ORDERED** that Defendant's Motion to Reconsider (ECF No. 468) is
4 **DENIED.**

5 **DATED** this 28th day of March, 2013.

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8 Gloria M. Navarro
9 United States District Judge
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